

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA

KIMBERLY ALLEN, Personal  
Representative of the ESTATE  
OF TODD ALLEN, Individually,  
on Behalf of the ESTATE OF  
TODD ALLEN, and on Behalf of  
the Minor Child PRESLEY  
GRACE ALLEN,

Plaintiffs,

vs.

UNITED STATES OF AMERICA,

Defendant.

\_\_\_\_\_  
Case No. A04-0131 (JKS)

**DEPOSITION OF KIMBERLY ALLEN**

Pages 1 - 167, inclusive

Tuesday, April 12, 2005, 9:40 a.m.

Anchorage, Alaska

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Kimberly Alen

Deposition

April 12, 2005

Page 121

1 waited a little bit longer.

2 And then -- and then my hand was on his  
3 chest, and I noticed, you know, it was irregular. It  
4 was -- you know, you could feel some of his heart  
5 going up and down.

6 **Q. The heart was irregular or the breathing was  
7 irregular?**

8 A. His breathing and the -- you know, it wasn't  
9 a normal up and down. And so that -- I mean, that  
10 just scared me. So then I really tried to wake him up  
11 and shake him. And he was dead weight. And so when I  
12 tried to lift him up, thinking if I can lift him up, I  
13 would wake him up. I lifted him up and rolled him  
14 over, and blood came out of the side of his mouth.

15 **Q. He had been sleeping on his stomach?**

16 A. Back.

17 **Q. On his back. And you tried to roll him over  
18 onto his stomach?**

19 A. Right side.

20 **Q. And you saw --**

21 A. I was trying to pick him up, is what I was  
22 trying to do. When I picked him up and the blood came  
23 out of the right side of his mouth, that's when I  
24 called 911.

25 **Q. Okay. And he didn't wake up at any time**

Page 122

1 **during this process?**

2 A. No.

3 **Q. Okay. And when you called 911, you just  
4 talked to whoever it was on the other end of the line  
5 and said your husband was in trouble?**

6 A. I said, "You need to get here right" -- I  
7 said, "You need to get here right now. My husband is  
8 not breathing. There's blood coming out of his  
9 mouth."

10 **Q. And up to this point, no one else has been  
11 in the room, no one else has seen anything that's gone  
12 on. It's just you and Mr. Allen?**

13 A. Correct.

14 **Q. And then is the next thing that happens the  
15 emergency team comes?**

16 A. Well, the next thing, they tried to walk me  
17 through CPR.

18 **Q. Over the phone?**

19 A. Yes.

20 **Q. And did you attempt to do CPR?**

21 A. Yeah, I did. She told me to get him on a  
22 flat surface. I said, "He is. He's on the bed."  
23 They said, "No. He has to be on a hard flat surface."

24 So I had to pull him off the bed to the  
25 floor. And he was dead weight, so it was really hard.

Page 123

1 I had to push the bed all the way over and pull him  
2 off and get him on the floor. And by that time -- I  
3 had just started CPR -- the police were knocking on  
4 the door to be let in, and then they took over.

5 **Q. Once they took over, you weren't providing  
6 any care after that?**

7 A. Correct.

8 **Q. Do you remember: When they came in, did you  
9 talk to them and explain to them what happened?**

10 A. Yeah. They asked me what happened.

11 **Q. And here's where I'm -- if you can remember  
12 what you told them, I would be interested in hearing  
13 it. But I would understand if you said I just don't  
14 remember at the time, because things were happening so  
15 quickly. Do you remember specifically what you told  
16 them about the events?**

17 A. I remember specifically that I had told  
18 them -- I missed -- sorry. I had -- can we back up a  
19 minute?

20 **Q. Sure.**

21 A. Because I had actually -- the time that I  
22 had tried to wake him up, I was concerned so I called  
23 ANMC.

24 **Q. And if we back up, which time are we talking  
25 about? Let me ask you: Was it before or after you**

Page 124

1 **went to REI?**

2 A. After.

3 **Q. So you came back.**

4 A. Came back.

5 **Q. And you said --**

6 A. And then I had first tried to wake him up  
7 and say, "Your food's here. Are you hungry? Do you  
8 want to eat?" It wasn't that time. It was the next  
9 time after that.

10 **Q. And just so I can place it, as I understand  
11 it, you came back from REI. You tried to wake him up,  
12 but you didn't really do a lot. You just sort of  
13 called to him, and he didn't wake up so you thought  
14 you would let him sleep.**

15 A. Correct.

16 **Q. And then you sat down and ate your meal?**

17 A. Correct.

18 **Q. And then after that you tried to wake him up  
19 a second time?**

20 A. Right.

21 **Q. And again --**

22 A. And that's when I thought, well, this isn't  
23 normal. So that's when I called ANMC. It was their  
24 direct line, and I asked to speak to a nurse.

25 **Q. Now that you got -- so you decided that you**

34 (Pages 121 to 124)



Kimberly Alen

Deposition

April 12, 2005

Page 125	Page 127
<p>1 wanted to talk to someone at ANMC. Why? Because you</p> <p>2 couldn't wake him up?</p> <p>3 A. Yeah. I was concerned that I couldn't wake</p> <p>4 him up, and I just wanted to make sure that, you</p> <p>5 know -- you know, should I call an ambulance or should</p> <p>6 I -- you know, is this considered normal? Is this --</p> <p>7 what should I look for?</p> <p>8 Q. And the number that you called, was it the</p> <p>9 general number for ANMC?</p> <p>10 A. Yeah, I believe so.</p> <p>11 Q. Did you use the hotel phone?</p> <p>12 A. I used my cell phone.</p> <p>13 Q. And so up to that point that day, that would</p> <p>14 have been the only phone call you had made to ANMC?</p> <p>15 A. Yes.</p> <p>16 Q. Because you didn't call -- you said you</p> <p>17 didn't call before you went there in the morning.</p> <p>18 A. Right.</p> <p>19 Q. Then you were there in the morning, and then</p> <p>20 you were out doing errands and then you came back to</p> <p>21 the motel and then you went back out to do an errand.</p> <p>22 And now you come back and you're making a call to</p> <p>23 ANMC. So that's the first call you would have made</p> <p>24 that day?</p> <p>25 A. Correct.</p>	<p>1 Q. Okay. Was it a man or a woman?</p> <p>2 A. A woman.</p> <p>3 Q. Okay. And so as we sit here today, other</p> <p>4 than her voice, you don't know this nurse's name or</p> <p>5 position?</p> <p>6 A. No.</p> <p>7 Q. Okay. All right. And then again, as best</p> <p>8 as you can recall, what did you tell this person?</p> <p>9 A. I told this person that we had been in the</p> <p>10 emergency room that morning. My husband had come in</p> <p>11 complaining of the pain in the back of his neck, up to</p> <p>12 the top of his head.</p> <p>13 Q. And did you tell this person that whole</p> <p>14 story, about what the pain was and where it was?</p> <p>15 A. Yes. I wanted her to have as much</p> <p>16 information as possible to give me that information.</p> <p>17 Q. What else did you tell this person about?</p> <p>18 A. That they gave him a shot of Phenergan,</p> <p>19 Phenergan or whatever it is.</p> <p>20 Q. Did you tell this person about the nausea</p> <p>21 and vomiting?</p> <p>22 A. The night before, yeah. And said, you know,</p> <p>23 "I came home, and he's sleeping really hard." Said,</p> <p>24 "He's breathing, he's snoring, but he's just sleeping</p> <p>25 really hard, and I can't wake him up. Is this right?</p>
Page 126	Page 128
<p>1 Q. All right. And is that the only call you</p> <p>2 made that day to ANMC?</p> <p>3 A. Yeah, that I can remember right now.</p> <p>4 Q. And do you remember: Did you get like a</p> <p>5 receptionist, or did you get a medical person when you</p> <p>6 called?</p> <p>7 A. No. I believe it was the receptionist. And</p> <p>8 you just -- or it was a person. And then I just</p> <p>9 asked: "Can I speak to a nurse, please?" And I was</p> <p>10 transferred to the emergency room.</p> <p>11 Q. And how do you know you were transferred to</p> <p>12 the emergency room?</p> <p>13 A. Because the person on the other end said</p> <p>14 that they were a nurse. Because I asked, you know:</p> <p>15 "Are you a nurse?"</p> <p>16 Q. So when you got transferred, you asked the</p> <p>17 person on the other end: "Are you a nurse?"</p> <p>18 A. Correct.</p> <p>19 Q. And what did they say?</p> <p>20 A. Said, "Yes, I'm a nurse in the emergency</p> <p>21 room."</p> <p>22 Q. And did they give you a name?</p> <p>23 A. No.</p> <p>24 Q. Was it a man or --</p> <p>25 A. Well, they may have, but I don't remember.</p>	<p>1 Is this okay?"</p> <p>2 Q. And when you say you told this person that</p> <p>3 you couldn't wake him up, did you explain what you had</p> <p>4 done to try and wake him up? In other words, the</p> <p>5 first time you told me you tried to wake him up you</p> <p>6 said, "I just called him and said, Todd, you want to</p> <p>7 wake up."</p> <p>8 A. Right. Yeah.</p> <p>9 Q. That's a little different than going over</p> <p>10 and shaking someone and they still won't wake up. Did</p> <p>11 you give the person on the other end of the phone any</p> <p>12 indication of how hard it was to wake him up or what</p> <p>13 you had done to try and wake him up?</p> <p>14 A. I can't say for sure.</p> <p>15 Q. Okay. And in terms of what Mr. Allen was</p> <p>16 doing at that moment, you said you tried to wake him</p> <p>17 up but he wasn't waking up. And what else did you</p> <p>18 tell them? Did you tell them about the snoring?</p> <p>19 A. Yes. I said that, didn't I?</p> <p>20 Q. That's what I'm asking you. Did --</p> <p>21 A. Yeah. Yeah. I said he was snoring loudly</p> <p>22 and, you know, should I be concerned? Should I bring</p> <p>23 him in to the hospital, or is this something that is</p> <p>24 normal with the shot and him being so tired and being</p> <p>25 through everything he's just been through in the day</p>

35 (Pages 125 to 128)